

REMARKS

Claims 1 and 51-56 are currently pending. Claims 2-50 referenced in the Office Action have been cancelled by preliminary amendment filed on September 12, 2003. Claims 1 and 51-56 have been amended to clarify the relationship between the alternating bands or sections. Also, claims 1, 51, 52 and 54 have been amended to correct obvious typographical errors.

No new matter is introduced by these amendments and the amendments are supported by the instant specification.

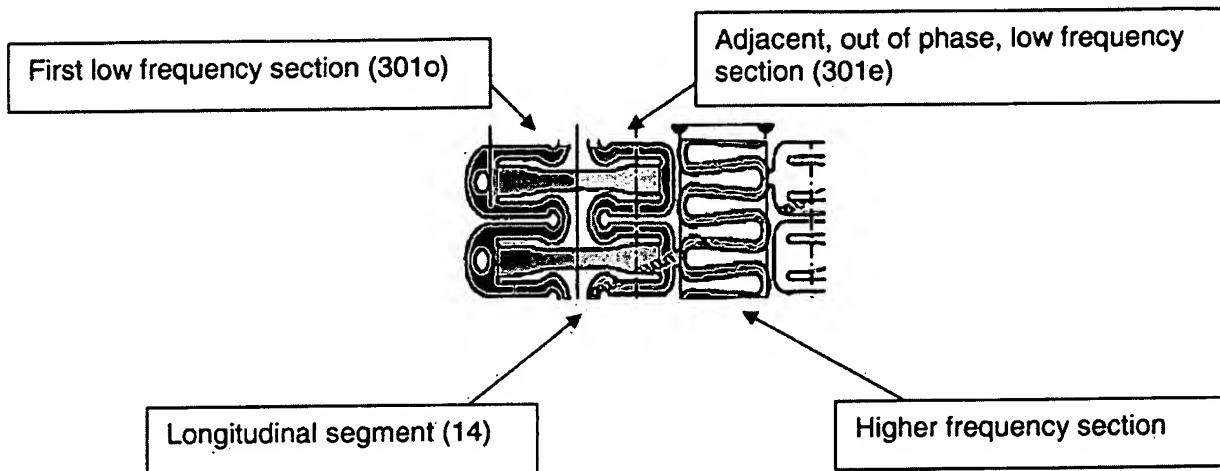
Response to 35 U.S.C. §102 Rejections

Claims 1-8, 10-25, 27-33, 35, and 37-50 have been rejected under 35 U.S.C. §102(e) as being anticipated by Berry et al (US 6,231,598). Applicants respectfully disagree with this rejection.

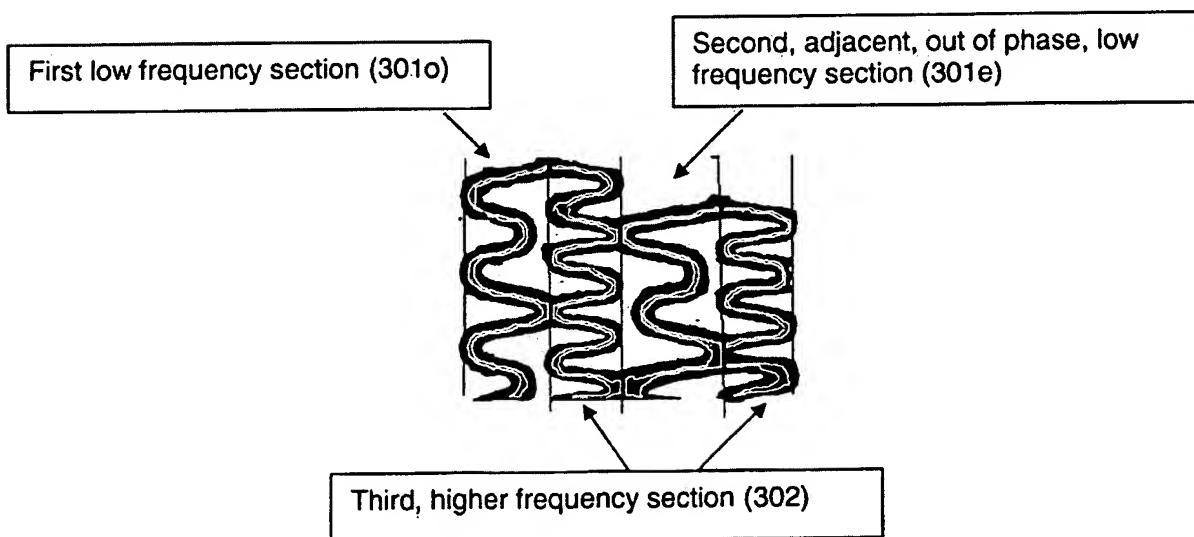
The Examiner states that FIG. 5 of the Berry '598 patent discloses a stent of stainless steel or nitinol as recited in the claims. It should be noted first that all claims besides claim 1 of the present application have been cancelled by preliminary amendment. That notwithstanding, the following response considers the Berry '598 patent in relation to claim 1 as well as claims 51-56.

Applicants respectfully disagree with the Examiner's statement that the above-referenced claims of the present application are anticipated by FIG. 5 of the Berry '598 reference. The Berry stent includes adjacent, out-of-phase first loop containing sections, identified as (301e) and (301o) in the Office Action, which are connected

periodically by a straight longitudinal segment identified as (14) in FIG. 5 as opposed to the higher frequency segment, as illustrated below.



By distinction, the claims of the present application are directed to a stent comprising a first loop containing section (301o) connected to each adjacent out-of-phase loop containing section (301e) exclusively through a third loop containing section having a second frequency, higher than the first frequency (302), as illustrated below.



The claims of the present application include the limitation that the adjacent lower frequency sections be connected exclusively through the higher frequency sections; thus, the periodic inclusion of a straight longitudinal segment to connect the adjacent lower frequency sections as taught by the Berry '598 patent is disallowed by the present application. The Berry stent likewise fails to teach or suggest the instant claim limitation requiring that the out-of-phase low-frequency bands or sections be connected exclusively by the high-frequency bands or sections. Similarly, Berry fails to teach or suggest a stent structure wherein the first and second lower frequency loop containing sections and connected together via the third, higher frequency loop containing section without other connections between the first and second sections. Therefore, Berry does not anticipate claims 1 or 51-56 of the present application.

Reconsideration of the rejections under 35 U.S.C. §102(e) as to claims 1 and 51-56 is respectfully requested for the above reasons.

Response to 35 U.S.C. §103 Rejections

Claims 9, 26, 34, and 36 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Berry '598 patent. The Examiner states that it would have been obvious to select a maximal strain of less than 0.5% as disclosed in the present application in light of the Berry '598 patent; since such a modification would have involved a mere change in the size of a component. Applicants respectfully disagree with this rejection. Given that the claims referenced by the Examiner have been cancelled, this objection is considered moot; therefore, withdrawal of the rejections under 35 U.S.C. §103(a) as to claims 9, 26, 34, and 36 are respectfully requested.

CONCLUSION

Based on the foregoing amendments and remarks, applicant respectfully requests reconsideration and withdrawal of the rejections of the pending claims and requests allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 50-4387, Order No. 92077.003.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-4387, Order No. 92077.003.

Respectfully submitted,
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